

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

M.A.C.M.A. NOS: 557 OF 2022 AND 427 OF 2023

M.A.C.M.A. NO: 557 OF 2022

Appeal under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 17-05-2022 made in M.V.O.P.No.953 of 2016 on the file of the Court of the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad.

Between:

1. R Neelima, W/o. Late Narender, Aged. 32 years, Occ. Household
2. R Lakshmi Pranathi, D/o. Late Narender, Aged 11 years, Occ. Nil
3. R Sai Charan, S/o. Late Narender, Aged 10 years, Occ. Nil
4. R Ram Charan, S/o. Late Narender, Aged 8 years, Occ. Nil
5. R Prashanthi, W/o. R Prasad, Aged 56 years, Occ. Household
6. R Prasad, S/o. Ramalingam, Aged 64 years, Occ. Nil

[Petitioners No 2 to 4 are minors repled. By their Mother and Guardian, the Petitioner No. 1 herein]

All are R/o. H.No. 4-9-649, Flat No G3, Sri Swathi Residency, Vinayaka Nagar Colony, Hayathnagar, Ranga Reddy District

Presently R/o. H.No. 16-4-7/C, Malakpet, Hyderabad

...Petitioners

AND

1. The TSRTC, repled. by its Managing Director, RTC X Roads, Musheerabad, Hyderabad
2. The TSRTC, repled. by its Depot Manager, Hayathnagar-I Depep, Hayathnagar, Ranga Reddy District

(Owners of the TSRTC Bus bearing No.AP28Z-1858)

3. D. Sathaiah, S/o. Gandaiah, Aged about 59 years, Occ. Driver, Native of 1-132, Kandapur Village, Chandur Mandal, Nalgonda District - 543001
Presently R/o.H.No.4-9-40/ 189, Priyadarshini Colony, Hayathnagar, R.R. District

(Driver of the TSRTC Bus bearing No.AP28Z-1858)

...Respondents

Counsel for the Appellants : Sri Kota Subba Rao
Counsel for the Respondent No 1 & 2 : Sri R Anurag
Standing Counsel for TSRTC

M.A.C.M.A. NO: 427 OF 2023

Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 17-05-2022 made in M.V.O.P.No.953 of 2016 on the file of the Court of the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad.

Between:

1. The T.S.R.T.C., Rep. by its Managing Director RTC X Road, Musheerabad, Hyderabad
2. The T.S.R.T.C, Rep. by its Depot Manager, Hayathnagar-I Depot, Hayathnagar, Ranga Reddy District

...Appellants / Respondents

AND

1. R. Neelima, W/o. Late Narender, Aged 26 years, Occ. Household
2. R. Lakshmi Pranathi, D/o. Late Narender, Aged about 5 years, Occ. NIL
3. R. Sai Charan, S/o. Late Narender, Aged about 4 years, Occ. NIL
4. R. Ram Charan, S/o. Late Narender, Aged about 2 years, Occ. NIL
5. R. Prashanthi, W/o. R. Prasad, Aged about 50 years, Occ. House Hold
6. R. Prasad, S/o. Ramalingam, Aged about 58 years, Occ. NIL

All are R/o. H.No.4-9-649, Flat No. G3, Sri Swathi Residency, Vinayakanagar Colony, Hayathnagar, Ranga Reddy District, Presently R/o. H.No.16-4-7/C, Malakpet, Hyderabad

...Respondents / Petitioners

7. D. Sathiah, S/o. Gandaiah, Aged about 53 years, Occ. Driver, Native of 1-132, Kandapur Village, Chandur Mandal, Nalgonda District- 508 001

Presently R/o. H.No.4-9-40/ 189, Priyadarshini Colony, Hayathnagar, R.R. District

(Respondent No.7 is not necessary party to this case)

...Respondents / Respondent No 3

IA NO: 3 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of execution of the Judgment and Decree of the Motor Accident Claims Tribunal-cum-the Court of the Chief Judge, City Civil Court, Hyderabad, dated 17/05/2022, made in MVOP. No. 953 of 2016.

**Counsel for the Appellants : Sri R Anurag
Standing Counsel for TSRTC**

Counsel for the Respondent No 1 to 6: Sri P Rama Krishna Reddy

The Court delivered the following Common Judgment :

**THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

M.A.C.M.A.Nos.557of 2022 and 427of 2023

COMMON JUDGMENT: *(per Hon'ble Sri Justice Namavarapu Rajeshwar Rao)*

These two appeals are being disposed of by way of this common judgment since M.A.C.M.A.No.557 of 2022 filed by the appellants/claimants and M.A.C.M.A.No.427 of 2023 filed by the appellants/TSRTC, are directed against the very same Award and decree, dated 17.05.2022 passed in M.V.O.P.No.953 of 2016 by the Chairman, Motor Vehicle Accidents Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (for short, "the Tribunal").

2. For the sake of convenience, the parties are hereinafter referred to as they are arrayed before the Tribunal.

3. The brief facts of the case are as follows:-

The claim petition is filed under Section 166 of the Motor Vehicles Act, seeking a compensation of Rs.1,00,00,000/- from respondent Nos.1 to 3, who are Managing Director, Depot Manager and the driver of the T.S.R.T.C., on account of death of one Rapolu Narender (hereinafter referred to as 'deceased'), in a

motor vehicle accident that occurred on 13.01.2016 at about 10.30 p.m.

3(i) On 13.01.2016 at about 10.30 p.m., near Bawarchi Hotel, Hayathnagar, Cyberabad on National Highway-65, the deceased was proceeding on his motorcycle bearing registration No.AP-24P-2838 from Sunrise Hospital, Hayathnagar, towards Vinayakanagar Colony, slowly on the extreme left side of the road and when he reached Bawarchi Hotel, on National Highway-65, one T.S.R.T.C. bus bearing registration No.AP-28-Z-1858 driven by its driver at high speed in a rash and negligent manner, while proceeding in the same direction, came to the wrong side and dashed the motorcycle of the deceased from backside. Due to the impact, the deceased fell down and sustained grievous injuries to the head and fell unconscious. The deceased sustained multiple grievous injuries, fractures and other injuries all over the body. The deceased was shifted to Sunrise Hospital, Hayathnagar, in 108 Ambulance for first aid. As the condition of the deceased was serious, he was shifted to Yashoda Hospital, Malakpet, for better treatment. The deceased succumbed to his injuries on 15.01.2016 while undergoing treatment at Yashoda Super Specialty Hospital, Malakpet.

3(ii) The Police Hayathnagar registered a case in Cr.No.45 of 2016 under Sections 337 and 304-A of IPC against the driver of the said TSRTC bus bearing No.TS-28Z-1858.

4. Before the Tribunal, respondents No.1 and 2 by filing a counter opposed the claim petition denying the averments with respect to date, time, place, manner of occurrence of accident, rash and negligent driving on the part of the driver of RTC bus and the death of the deceased due to injuries suffered in the accident. They pleaded that the accident occurred only due to negligence and mistake of the deceased. Further, they denied the age, health condition, income of the deceased. Further, it is pleaded that the petitioners are making attempts to take advantage of social justice scheme by impleading the bus in an accident, in which the bus is not involved, though the deceased died due to his own fault. Accordingly, prayed to dismiss the claim petition.

5. Respondent No.3, driver of the said bus, filed a counter denying rash and negligent driving on his part being the cause for accident and death of the deceased. He pleaded that he is holding valid and subsisting driving license to drive a heavy passenger bus. Further, he is holding D.L.No.248732/HYD, valid upto July, 2019, Badge No.12385, issued by Regional

Transport Authority, Nalgonda District. He further pleaded that the petitioners have not filed any document to prove the relationship with the deceased and the age, income, occupation of the deceased, as such, denied the petitioners entitlement to claim compensation of Rs.1,00,00,000/-.

5(i) The positive case of the Respondent No.3 is that on 13.01.2016, the bus according to T.S.R.T.C. Statistical and Ticket Account Record, left the Depot at 14.45 p.m., and returned back to the Depot on the same day at 21.30 hours after completing the scheduled trips. The Service Conductor remitted day's collection vide Total Remittance Report on 13.01.2018 at 22.21.12 seconds at Depot Office. In the circumstances, the respondent No 3 pleaded that he is not responsible for the accident and that the deceased himself is responsible for the accident. Lastly, he pleaded that as per police complaint given by the brother of the deceased, one driver of unknown RTC bus, has driven in a rash and negligent manner and dashed the bike of the deceased. In spite of such clear narration, it is alleged that the petitioners colluded for wrongful enrichment and to cause wrongful loss to the Respondent Nos. 1 and 2 and to tarnish the career of Respondent No. 3 in spite of the fact that there is no

involvement of the bus in the accident. The Respondent No.3 pleaded that the claim petition is misconceived and deserves to be dismissed with costs.

6. Based on the above pleadings, the Tribunal framed the following issues:

- i. Whether the pleaded accident had occurred resulting in death of deceased R. Narender, due to rash and negligent driving of TSRTC bus bearing No.TS-28Z-1858, by its driver?
- ii Whether the petitioners are entitled to any compensation, if so, at what quantum and what is the liability of the respondents?
- iii To What relief?

7. To prove their case, petitioners got examined P.Ws.1 to 3 and got marked Exs.A1 to A25. On behalf of the respondent Nos.1 and 2, RW.1 was examined and got marked Ex.B1.

FINDINGS OF THE TRIBUNAL ON ISSUE No.1:

8. The Tribunal observed that as per the contents of Exhibit A1-FIR, it is the police who informed the brother of the deceased (complainant) that his brother met with an accident upon being hit by an RTC bus. PW2's evidence is that he noted the number of the bus as AP-28 Z-1858, gave his details to the relatives of the injured, who were gathered at the accident site. In case,

such is the case, there is no reason why the number of RTC bus is not written in the FIR, which was lodged on 14.01.2016 at 14.00 hours i.e.. after gap of almost 15 hours. The version of PW2 is also not believable for the reason that as per Exhibit A2-charge sheet, the Station House Officer made enquiry with the Depot Manager about the buses which were plied between Hayathnagar-I Depot and Hayathnagar Bus-stand on 13.01.2016 between 10.00 p.m. and 10.30 p.m. In case, PW2 was an eyewitness to the accident and had truly noted down the number of the bus, there would be no reason for the Station House Officer to make the enquiry with the Depot Manager of Hayathnagar - I Depot about the buses and the drivers who were plying the buses, in the route where the accident took place.

9. The Tribunal further observed that in this fact situation, another point to be noted is that not just the buses from Hayathnagar Depot, but buses from all the depots of Telangana and Andhra Pradesh would be plying near the accident site at the material time of accident. There is no ground to believe that it is the bus, which is alleged to be involved in the accident and it is the accused driver who has caused the accident with rash and negligent driving since indefinite number of buses would be

plying at the accident site on National Highway-65. The probability of involvement of the alleged TSRTC bus is further rendered doubtful on account of the fact that as per Ex.A-1, the bus was parked in the depot when the accident took place. Therefore, though this Tribunal is not inclined to believe the version of PW2, since the petitioners are claiming compensation under social welfare legislation, where the evidence has to be examined on the basis of preponderance of probabilities and not the parameter of beyond reasonable doubt, the involvement of the alleged bus i.e., AP- 28Z-1858 is taken to be true.

10. The Tribunal further observed that the social welfare legislation cannot be taken advantage of for wrongs committed by individuals due to bad habits. Exhibit B1 shows when the Ambulance reached the accident site to transport the injured to the nearest hospital, the injured was noted to be in an inebriated condition and in unconscious state. This fact is confirmed by Exhibit A5 Postmortem examination report, wherein, the doctor who conducted autopsy recorded presence of 30 c.c. brown colour liquid in the abdomen of the deceased that too after two days of the accident on 15.01.2016. As much as there is doubt about the involvement of the vehicle i.e. TSRTC bus bearing registration No. AP-28Z-1858, with a rash

and negligent driving on the part of the driver of the RTC bus, the accident occurring due to fault of the deceased, who was under the influence of alcohol in inebriated condition cannot be ruled out. Therefore, the liability for occurrence of the accident is found to be 50% each. Accordingly, issue No.1 is answered.

11. Pointing out the observations made by the Tribunal with regard to negligence aspect, learned counsel for the appellants/petitioners in M.A.C.M.A No.557 of 2022 vehemently argued that the Tribunal without appreciating the oral and documentary evidence properly, had wrongly held that the accident occurred due to the contributory negligence of the deceased and driver of bus to extent of 50%. That the Tribunal failed to appreciate the oral and documentary evidence of the Appellants/petitioners under Ex.A1 to A12 corroborated by the oral evidence of the independent eyewitness (PW2) which clinchingly establish that the accident occurred only due to the rash and negligent driving of the driver of the RTC Bus bearing No.AP28Z-1858.

12. Learned counsel for the appellants/petitioners further submitted that the Tribunal failed to appreciate that PW2 is an independent eyewitness whose hotel is located just opposite to place of the accident and his presence at the place of accident is

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quite natural and his evidence is unshaken in the cross-examination by Respondents No.1 to 3. The Tribunal had wrongly given the undue importance to Ex.B1 as it is not proved by the respondents by examining the concerned person and RW1 is not the author of Ex.B1 and he is no way concerned with the contents of Ex.B1 with regard to drunken stage. The Tribunal had wrongly given undue weightage to Ex.B1 in relation to drunken stage as the same had no basis in the absence of Breath Analyzer or Blood Test to show the presence of Alcohol in the blood or the deceased was under the influence of Alcohol.

13. Learned counsel for the appellants/petitioners further submitted that the Tribunal failed to see that immediately after the accident, the deceased was taken to Sunrise Hospital, Hayathnagar by 108 Ambulance and there is no mention in the causality prescription dated 14.01.2016 issued by Sunrise Hospital, that the deceased was in drunken stage or there is any smell of Alcohol and also there is no mention about the drunken stage in the medical record under Ex A9, death summary issued by Yashoda Hospital, Malakpet, Hyderabad, and thus, the Tribunal had wrongly held that the deceased was in drunken

stage and contributed to the accident to the extent of 50% without there being any evidence.

14. Learned counsel for the appellants/petitioners further submitted that the appellants have proved by filing the Police records and the oral evidence of independent eyewitness with regard to involvement of crime vehicle as the respondents have suppressed the documentary evidence and intentionally got eschewed the evidence of the Depot Manager (RW2) as if she enters into the witness box, the actual facts would have been elicited from her cross-examination with reference to the documents in their possession. As such, the order under appeal is liable to be set aside.

15. Learned counsel for the appellants/petitioners further submitted that the Tribunal failed to appreciate the fact that the contents of the viscera were not sent to FSL Laboratory as the Postmortem Doctor did not entertain any doubt or suspicion with regard to the presence of Alcohol in the stomach contents. As such, the order under appeal is liable to be set aside. The Tribunal had wrongly entertained doubt that as per PME report there is 30 CC of brown color liquid in the stomach of the deceased suspecting alcohol in the absence of FSL Report or

any other record. Accordingly, prayed to set aside the Order of the Tribunal.

16. Learned counsel for the appellants/petitioners relied upon the following judgments:

1. 2009 ACJ 1725(SC) in the case of Bimla Devi and others Vs. Himchal Road Transport Corporation and others.
2. AIR 1972 (SC) 283 in the case of Hasib Vs. State of Bihar.
3. 1994 ACJ 993 (SC) in the case of Haji Zainullah Khan (dead) by LRs Vs. Nagar Mahapalika, Allahabad.
4. 2001 AIHC 3472 (RAJ) in the case of Rajasthan Road Transport Corporation Vs. Santosh and others.
5. 2001ACJ 1273 (SC) in the case of Laxmibai Vs. Karnataka State Road Transport Corporation.
6. AIR 1999 (SC) 1441 in the case of Vidhyadar Vs. Manikrao and another.
7. AIR 1966 (SC) 629 in the case of Atyam Veeraraju and others Vs. Venkanna and others.
8. 2013 ACJ 2141 (SC) in the case of Jiju Kuruvilla and others Vs. Kunjujamma Mohan and others.
9. 2023 ACJ 2578 (Bomb) in the case of Pratima Hari Gaonker and others Vs. Deepak Singh and others.
10. 2019(2) ALD 390 (APDB) in the case of P. Suneela and others Vs. Shaik Kamal and another.
11. 2022 ACJ 2003(SC) in the case of Janabai Vs. ICICI Lombard General Insurance Company Ltd.

17. On the other hand, learned counsel for appellant/TSRTC in M.A.C.M.A No.427 of 2023 has vehemently contended that the Tribunal committed irregularity in holding that the accident occurred due to rash and negligent driving of the driver of the bus bearing No.AP-28Z-1858 without there being any acceptable evidence on record. The Tribunal ought to have appreciated the fact that there was no such accident at all occurred on 13.01.2016 at about 10.30 PM near Bawarchi Hotel with bus bearing No.AP-28Z-1858, there is no proof to that effect. The Tribunal ought to have appreciated the fact that the deceased was under the influence of alcohol and died on his own fault, there was no such accident occurred at all and the respondents/petitioners herein have made attempts to take advantage of social justice scheme by wrongfully impleading the bus in an accident.

18. Learned counsel for appellants/TSRTC further contended that the Tribunal ought to have appreciated the fact that the complaint given to the Police does not mention about the Bus number and it mentions that the deceased brother received a call from Police that an accident occurred, therefore, implicating the bus bearing No.AP-28Z-1858 in the accident has no relevance. The Tribunal erred in believing the evidence of PW.2

who is nothing but a planted witness and his evidence cannot be relied upon to prove the manner of the accident. The Tribunal ought to have appreciated the fact that the claim is made in collusion with police and there are no eyewitnesses to prove the claim of the respondents/petitioners herein.

19. Learned counsel for appellants/TSRTC further contended that the Tribunal ought to have appreciated the fact that as per Statistical and Ticket Account Record (STAR), the bus bearing No.AP-28Z-1358 was parked into the Depot by 22.25 hours and whereas the accident alleged to be occurred at 10.30 P.M., as such, the case registered against the appellants herein is for wrongful gain to claim compensation amount. Accordingly, prayed to dismiss the order of the Tribunal.

FINDINGS OF THIS COURT REGARDING NEGLIGENCE ASPECT:

20. While discussing the issue No.1, the Tribunal did not consider that PW2 is an independent eyewitness whose evidence is that he is the proprietor of Jai Bharath Hotel, Hayathnagar and the accident occurred opposite to the hotel. So, his hotel is located just opposite to place of the accident and his presence at the place of accident is quite natural and his evidence is

unshaken in the cross-examination by Respondents No.1 to 3. In the cross-examination he stated that hotel timings are from 6.00 a.m. to 11.30 p.m., and that the distance between Jai Bharath Hotel and Bawarchi Hotel is about 200 feet. He further stated that there was no public in Jai Bharath Hotel at 10.30 p.m. and that he was not in Jai Bharath Hotel, but in front of Bawarchi Hotel after taking tea. PW.2 denied the suggestion that the accident occurred due to intoxicated condition of the deceased who himself caused the accident with his own negligence.

21. A perusal of the impugned order goes to show that the Tribunal had wrongly given the undue importance to Ex.B1 as it is not proved by the respondents by examining the concerned person and RW1 is not the author of Ex.B1 and he is no way concerned with the contents of Ex.B1 in relation to drunken stage. The Tribunal had wrongly given undue weightage to Ex.B1 with regard to drunken stage as the same had no basis in the absence of Breath Analyzer or Blood Test to show the presence of Alcohol in the blood or the deceased was under the influence of Alcohol.

22. The Tribunal failed to see that immediately after the accident, the deceased was taken to Sunrise Hospital, Hayathnagar by 108 Ambulance and there is no mention in the causality prescription dated 14.01.2016 issued by Sunrise Hospital, that the deceased was in drunken stage or there is any smell of Alcohol and also there is no mention about the drunken stage in the medical record under Ex A9, death summary issued by Yashoda Hospital, Malakpet, Hyderabad, and thus, the Tribunal had wrongly held that the deceased was in drunken stage and contributed to the accident to the extent of 50% without there being any evidence.

23. As per Exhibit A1-FIR, the accident occurred when an unknown bus had hit the deceased when he was proceeding on his bike near Bawarchi Hotel on 13.01.2016 at 22.30 p.m. As per Exhibit A2 Charge Sheet, the driver of the RTC bus as well as the Depot Manager are charged under Section 304-A and 201 of I.P.C. A perusal of the impugned Award goes to show that according to the investigation done by the police, the accident was caused by the Respondent No.3, who has driven the bus in a rash and negligent manner and dashed the bike of the deceased, and LW.4 A. Dhanraj and L.W.5 Athukuri Janardhan are the eyewitnesses to the accident and their evidence reveals

that the bus bearing registration No.AP-28Z-1858 dashed the two-wheeler on 13.01.2018 at 22.30 hours. The Depot Manager has given contradictory reports about the RTC buses plying in the route and it is deemed that she has tried to suppress the evidence, therefore, charged under Section 201 of I.P.C.

24. Exhibit A4 is the inquest report. wherein, the panchas opined that the deceased died due to injuries sustained in a road traffic accident upon being hit by the RTC bus. As per Exhibit A5-Postmortem Examination Report, the deceased died due to head injury on 15.01.2016 at 15.50 hours. The postmortem report reveals presence of 30 C.C., brown colour liquid, no specific smell and mucosa normal. As per Exhibit A6-Motor Vehicles Inspector's Report, mechanical defect is not the cause of the accident.

25. The driver of the RTC bus got examined as RW1. RW1 deposed that the bus driven by him i.e., AP-28Z-1858 was not involved in the accident and was not plying on the road at the time of the accident. As per Statistical and Ticket Account Record (STAR), the bus was parked inside the Depot by 22.25 hours. The total tickets remittance report was generated at 22.21.12 seconds, whereas, the accident occurred at 22.30 hours. As per 108 service record, the call about accident was

received about 10.33 p.m. If the contention of the driver is believable, no one is prevented him to produce Statistical and Ticket Account Record (STAR) before the Court but he did not do so. The Tribunal only basing on the oral evidence came to the conclusion that there is negligence of 50% each on the part of the driver of the bus and the deceased. In the cross-examination RW-1 stated that there is sufficient security at the entrance of Hayathnagar Depot round the clock. The Security Guards maintain a register noting down the date and time of entry and exit of all vehicles. When the vehicle is handed over, the driver gets log sheet and the conductor will be given Statistical and Ticket Account Record (STAR) and MTD 141. Respondents did not produce any piece of evidence with reference to the above issues.

26. The respondents/RTC contended that the deceased was under the influence of alcohol and died on his own fault and there was no such accident occurred to all. Having pleading so, they have not taken any steps to prove the same. Moreover, as stated supra, the Tribunal had wrongly given undue weightage to Ex.B1 with regard to drunken stage as the same had no basis in the absence of Breath Analyzer or Blood Test to show the presence of Alcohol in the blood or the deceased was under the

influence of Alcohol. As per PME report, when there is no evidence with regard to Alcohol in the dead body of the deceased, how the Tribunal came to conclusion that the deceased had in drunken condition and fix the contributory negligency.

27. Learned counsel for the appellants/petitioners has relied upon the Bimladevi's case (1st supra) wherein the Supreme Court held that:

"(15) In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.

16. The judgment of the High Court to a great extent is based on conjectures and surmises. While holding that the police might have implicated the respondents, no reason has been assigned in support thereof. No material brought on record has been referred to for the said purpose."

In the case on hand, while giving a complaint, a person informed the police that the accident occurred with a bus but he did not mention the bus number in the complaint. The evidence on record clearly proves that the accident had occurred

resulting in death of deceased R. Narender only due to rash and negligent driving of TSRTC bus bearing No.TS-28Z-1858 by its driver/RW.1 and if the contention of the respondents is believed as to the negligence of the deceased, there is no piece of evidence to prove the same.

28. Learned counsel for the appellants/petitioners has relied upon the Hasib's case (2nd supra) wherein the Supreme Court held that:

"The complicity of this appellant in the crime has thus been established beyond all reasonable doubts. Here the High Court appears to have clearly gone wrong in law. The legal position as to the object, value and use of first information report is well settled. The principal object of the first information report from the point of view of the information is to set the criminal law in motion and from the point of view of the investigating authorities is to obtain information about the alleged criminal activity so as to be able to take suitable steps for tracing and bringing to book the guilty party. The first information report, we may point out, does not constitute substantive evidence though its importance as conveying the earliest information regarding the occurrence cannot be doubted. It can, however, only be used as a previous statement for the purpose of either corroborating its make under Section 157 of the Indian Evidence Act or for contradicting him under Section 145 of that Act. It cannot be used for the purpose of corroborating or contradicting other witnesses. The High Court was, therefore, in error in seeking corroboration of the testimony P of P.W. 10 from the F. I. R. of which he was not the maker."

In the case on hand, the contention of the respondents is that the FIR does not contain the bus number. So, involvement of the bus in the said accident does not arise. As per the above judgment, the principal object of the first information report from the point of view of the information is to set the criminal law in motion and from the point of view of the investigating authorities is to obtain information about the alleged criminal activity so as to be able to take suitable steps for tracing and bringing to book the guilty party. The police after thorough investigation filed charge-sheet against the Bus driver. Though there is no bus number in FIR, it is reflected in the chargesheet as Bus No.AP-28Z-1858. So, mere non-mention of Bus number in the FIR, does not vitiate the entire episode.

29. Learned counsel for the appellants/petitioners has relied upon the Haji's case (3rd supra) wherein the Supreme Court held that:

"9. The Tribunal and the High Court rejected the version of Abdul Khalique primarily on the ground that there was no corroboration to his testimony. We are of the view that the courts below were not justified in disbelieving the testimony of Abdul Khalique. He was a disinterested witness who was having tea in a restaurant at distance of about 15/20 feet from the place of occurrence. There is nothing on the record to show that he was trying to help the claimants in any manner or was not a truthful witness. On the other hand, the Nagar Mahapalika

produced before the Tribunal the driver of the vehicle and an Assistant Engineer who were its employees. Both were interested witnesses. The Nagar Mahapalika did not produce even a single independent witness to support its version. The Tribunal and the High Court fell into patent error in preferring the evidence of two wholly interested witnesses to that of Abdul Khalique who was an independent witness and whose presence on the spot could not be doubted."

In the case on hand also, except the driver of the Bus, no independent witness was examined to support the contention of respondents. PW.2 was a disinterested witness who was in front of a Bawarchi Hotel after having tea, and he was at a distance of about 200 feet from the place of occurrence and he was an independent witness and his presence on the spot could not be doubted.

30. Learned counsel for the appellants/petitioners has relied upon the Rajasthan State Road Transport Corporation case (4thsupra) wherein the Rajasthan High Court held that:

"Both the employees of Corporation are interested witnesses and the Tribunal rightly did not rely on their evidence."

In the case on hand, the driver and conductor of the Bus are employees of the TSRTC and are interested witnesses. Except

their contentions, they have not produced any independent evidence.

31. Learned counsel for the appellants/petitioners has relied upon Lakshmibai's case (5th supra) wherein the Supreme Court held that:

"6. The Tribunal found that the respondent did not produce copies of the log-sheet and control charts to show that the bus in question was not plied on that road on the date of the accident and the said bus was not involved. Thus, on a proper appreciation of evidence, the Tribunal was quite justified in recording a finding that the said bus was involved in the accident. But we find that the approach of the High Court was wrong in appreciating the evidence inasmuch as it was technical and thrust was on niceties."

In the case on hand also, to prove their case, the respondents have not produced any document such as log-sheet or security guard report or Statistical and Ticket Account Record (STAR) and MTD 141 etc. Thus, on appreciation of evidence, the Tribunal was not entirely justified in recording a finding that there was negligence on the part of the deceased as well as on RW.1.

32. Learned counsel for the appellants/petitioners has relied upon Vidhyadhar's case (6th supra) wherein the Supreme Court held that:

"16. Where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct as has been held in a series of decisions passed by various High Courts. The Allahabad High Court in Arjun Singh v. Virender Nath, AIR 1971 Allahabad 29 held that if a party abstains from entering the witness box, it would give rise to an inference adverse against him. Similarly, a Division Bench of the Punjab and Haryana High Court in Bhagwan Dass v. Bhishan Chand, AIR 1974 Punj and Har 7, drew a presumption under Section 114 of the Evidence Act against a party who did not enter into witness box."

In the case on hand, RW-2 did not enter into witness box for the reasons best known to her and her evidence was eschewed.

33. Learned counsel for the appellants/petitioners has relied upon Jiju Kuruvilla's case (8th supra) wherein the Supreme Court held that:

"5. The aforesaid evidence, Exh. A5, clearly suggests that the deceased had taken liquor but on the basis of the same, no definite finding can be given that the deceased was driving the car rashly and negligently at the time of accident. The mere suspicion based on 'scene mahazar', Exh. B2, and the post-mortem report, Exh. A5, cannot take the place of evidence, particularly when the direct evidence like independent eyewitness, PW.3, F.I.R., Exh. A1, charge-sheet, Exh. A4, and F.I. statement, Exh. B1, are on record."

In the case on hand also, Doctor said that there was 30 CC of brown color liquid with no specific smell and mucous of normal consistency in the stomach of the deceased. Doctor did not express that the said liquid is related to the alcohol or some other drug. There is no FSL Report or any other record regarding contents of alcohol or some other drug. Even if it is assumed that the deceased had taken liquor but on the basis of the same, no definite finding can be given that the deceased was driving the motorcycle rashly and negligently in drunken condition at the time of accident. As such, the Tribunal erred in arriving that the deceased was also negligent in driving his motorcycle.

34. Learned counsel for the appellants/petitioners has relied upon Pratima Hari Gaonker's case (9th supra) wherein the Bombay High Court held that:

"17. Insofar as the second point for determination is concerned, at the outset, it is necessary to note that the burden is on the insurance company to establish breach of the terms and conditions of the insurance policy. As regards the driver being under the influence of alcohol, there is no evidence to sustain this contention. The F.I.R. does refer to the driver being under the influence of alcohol. However, that, by itself, is not sufficient to discharge the burden. No witnesses were examined, and no effort was made to establish that the alcohol limits exceeded the prescribed limits. Based on such a casual statement in the F.I.R., the fundamental breach of the

terms and conditions of the insurance policy cannot be inferred.'

In the case on hand, though it is pleaded by the respondents that the deceased was in drunken condition, but they failed to establish the same. No witnesses were examined, and no effort was made to prove that the alcohol limits exceeded the prescribed limits. As such, the contention of the respondents does not hold water.

35. Learned counsel for the appellants/petitioners has relied upon P. Suneela's case (10th supra) wherein the High Court of Telangana and Andhra Pradesh held that:

"21. The reason for disbelieving the incident appears to be that if really PW2 has seen the incident, he would have definitely informed the police about the vehicle number and the same would have found place in the First Information Report, which was sent three days after the incident. But it is to be noted here that though there is a delay of about three days in sending the F.I.R., to the Court, but the First Information Report was given on the next day at 2.00 p.m. The family members of the injured would have been more concerned with the health of the injured rather than informing the police about the accident. In cases of this nature, one cannot find fault with the delay in lodging the report, which in our view is also not abnormal. Since the informant, who lodged the report, is not an eye-witness to the incident and his source of information is the information gathered from the scene, non-mentioning of the auto number cannot be found fault. The averments in the charge-sheet, indicate that PW2 was examined long after lodging of the report, i.e., when they went to the scene of

offence after registering the crime. When the answers elicited in the cross-examination of PW2, were to the effect that he noted down the auto number and informed the same to the police, one cannot find fault with the police in tracing out the vehicle.

22. The argument of the learned Counsel for the Insurance Company is that when the evidence of PW2 in the cross-examination is to the effect that the auto dashed against the motorcycle and vanished from the accident site, it would be difficult for him to remember the auto number. It is urged that since the First Information Report is silent as to the involvement of the auto and having regard to the fact that the auto was not damaged, pleads that auto as a crime vehicle was set up at a later point of time.

23. It is to be noted that having elicited an answer from PW2 that the auto got vanished from the site after the incident, there was no necessity for the Counsel for the Insurance Company to ask him as to whether he noted down the auto number. To the question as to whether he noted down the auto number, the witness positively states that he has noted down the auto number and intimated the same to the police. He however rightly states that he does not remember whether the auto number was mentioned in the statement, since the First Information Report was not given by PW2, but the brother of the deceased, who lodged the report basing on the information furnished by PW2. Even in the charge-sheet, the brother of the deceased, who lodged the report, was not shown as an eye-witness to the incident. Only PW2 and two others namely Md. Ishaq Ali and Md. Azmath were shown as eye-witnesses to the incident. Therefore, the presence of PW2 at the site and he witnessing the incident cannot be doubted. Hence, we hold that the evidence on record amply establish the involvement of the auto in the accident.

24. With regard to the finding of the Tribunal that if really PW2 has mentioned the number of the auto in his 161 Cr.P.C. statement, the claimants ought to have produced the statement in support of their case that the averments in the charge-sheet do not refer to examination of PW2 as LW3 in the charge-sheet, on the date of accident or on any other day shortly much less before 04.11.2010 on which date the driver of the auto was arrested, it is to be noted that these findings on the face of it are incorrect. Firstly, if the version of PW2 with regard to he noting down the vehicle number and informing the same to the police is doubted, nothing prevented the Insurance Company to confront PW2 with his earlier statement. The Insurance Company could have obtained a copy of the statement and confront the version therein to PW2. On the other hand, their own Counsel in the cross-examination of PW2, elicited answers which establish the case of the claimants with regard to involvement of the Auto No.AP 28 TB 3035. Having elicited the answers, one cannot now go back and doubt the version of PW2. Further, as held by us earlier, Ex.A1 was not given by PW2. So, non-mentioning of the auto number in the First Information Report in our view cannot be given much weight to doubt the case of the claimants, more so, when the claimants have to prove their case on the touchstone of preponderance of probabilities.

In the case on hand also, the complaint does not mention the bus number, whereas PW.2 noted down the bus number and informed the same to the police. Under the circumstances, non-finding of vehicle number in the FIR itself cannot be find fault with the police for proving the Bus number. As such, the contention of the respondents is not accepted.

36. Learned counsel for the appellants/petitioners has relied upon Janabai's case (11th supra) wherein the Supreme Court held that:

"9. On the other hand, the owner has appeared as a witness. He admitted that he had taken the vehicle on supurdari and that he has not filed any proceedings to quash F.I.R. against Sanjay, driver of the car. He admitted that bail application form and surety bond (Exhs. 68, 69 and 70) show that he has stood surety for the driver wherein he has mentioned the accused as driver of his vehicle. It has also come on record that the owner has not made any complaint in respect of false implication of his vehicle or the driver.

10. We find that the rule of evidence to prove charges in a criminal trial cannot be used while deciding an application under section 166 of the Motor Vehicles Act, 1988 which is summary in nature. There is no reason to doubt the veracity of the statement of appellant No. 1 who suffered injuries in the accident. The application under the Act has to be decided on the basis of evidence led before it and not on the basis of evidence which should have been or could have been led in a criminal trial. We find that the entire approach of the High Court is clearly not sustainable."

In the above case it is observed that the rule of evidence to prove charges in a criminal trial cannot be used while deciding an application under section 166 of the Motor Vehicles Act, 1988 which is summary in nature. There is no reason to doubt the veracity of the statement of appellant No. 1 who suffered injuries in the accident. The application under the Act has to be decided on the basis of evidence led before it and not on the

basis of evidence which should have been or could have been led in a criminal trial.

In the present case also, whether vehicle is involved or not in the accident is the question and deciding the issue, more particularly, as M.V. Act is a beneficial legislation and also under Section 166 of the M.V. Act, need not follow as it is done in criminal case. It is not a criminal case and basing on the evidence of witnesses, it is proved that the bus is involved in the accident and the bus number was also noted down by PW.2/eyewitness. But, the Tribunal did not consider the same and attributed the negligence of 50% each on the deceased and on the driver of the bus, and the same is not accepted.

37. A perusal of the impugned Award reveals that there is a dispute between the petitioners and the respondents about the involvement of the RTC bus in the accident for the reason that the number of the RTC bus is not mentioned in the FIR. As per FIR, one unknown RTC bus has hit the bike of the deceased and caused the injuries. Subsequently, the police have written a letter to the Depot Manager of the Hayathnagar Depot, enquiring about the buses which were plying between Hayathnagar Bus Depot and Hayathnagar Bus-stop between 10.00 p.m., and 10.30 p.m., on 13.01.2016. On the basis of

evidence given by the Depot Manager of the Hayathnagar-1 Depot, the respondent No.3/driver of the bus was implicated in the case as accused, whereas, the documentary evidence marked under Exhibit-B1 shows that the Conductor submitted the Total Remittance Report on 22.21.12 seconds. The bus was parked in the bus-depot by 10.25 p.m., while so, the call to the Ambulance Was made at 10.33 p.m., about the occurrence of the accident there is a gap of about ten minutes between the claim of the petitioners alleging the accident and the claim of the respondents alleging that the bus was parked in the bus-depot at the material time of the accident. The number of offending vehicle not being mentioned in FIR, is not a reason to doubt the involvement of the vehicle in the accident since the police investigation establishes the same. With regard to time of occurrence of accident also, one cannot say exact time because all watches do not show the correct time. Based on the timings, one cannot decide the case. Even otherwise also, there is no proper evidence to prove the exact time.

38. The evidence of RW1 cannot be believed as he is accused No.1 in the criminal case for the offence under Section 304-A of I.P.C. The respondents failed to produce Log Register, STAR. MTD 141 Register and Security Guard Register and such

evidence is withheld since contents of said documents would go against their case, and therefore, an adverse inference has to be drawn against the respondents under Section 114 (g) of the Indian Evidence Act. So, for all the reasons mentioned supra, the Tribunal failed to attribute 100% negligence on the part of the driver of the RTC bus bearing No.AP-28Z-1858.

39. For the foregoing reasons and the principles laid down in the above referred decisions, this Court is of the considered view that the pleaded accident had occurred resulting in death of deceased R. Narender, only due to rash and negligent driving of TSRTC bus bearing No.TS-28Z-1858 by its driver/RW.1 and there was no negligence on the part of the deceased. In this aspect the Tribunal wrongly came to the conclusion without there being any proper evidence.

QUANTUM OF COMPENSATION:

40. Learned counsel for the appellants/petitioners submitted that the Tribunal had taken the future prospects on lower side and the Tribunal had wrongly taken the age of the deceased on higher side and applied the incorrect multiplier. He further submitted that the Tribunal had wrongly granted less compensation towards conventional heads to the appellants/petitioners towards loss of consortium, loss of love

and affection, loss of estate, funeral expenses, parental consortium, filial consortium etc., He further submitted that the Tribunal had wrongly taken the contribution on lower side and wrongly deducted the personal expenses on higher side. He further submitted that the Tribunal failed to grant compensation towards pain and suffering as the deceased died after two days of the accident. Lastly, he submitted that the Tribunal granted less medical expenses, and failed to grant compensation towards attendant charges, transportation, extra nourishment etc.,

41. Learned counsel for the appellants/petitioners has relied upon the following judgments:

1. 2020 ACJ 526 (SC) in the case of Malarvizhi Vs. United India Insurance Co. Ltd., and another
2. 2021 ACJ 2683 in the case of Rukmani Jethani and others Vs. Gopal Singh and others

Accordingly, prayed to allow the appeal.

42. Per contra, learned counsel for appellants/RTC contended that the Tribunal erred in determining the deceased income as Rs.5,10,454/- by adding 40% future prospects without there being any proof. He also claimed that the Tribunal erred in awarding Rs.70,000/- towards funeral expenses, Rs.1,20,000/- towards parental consortium to respondents/petitioners No. 2

to 4, Rs.80,000/- towards filial consortium to respondents/petitioners No.5 and 6. Accordingly, prayed to dismiss the order of the Tribunal.

43. After considering the oral and documentary evidence available on record, the Tribunal held that the liability for occurrence of the accident is 50% each, and accordingly awarded an amount of Rs.32,62,009/- with interest @ 7.5% per annum from the date of petition till the date of realization.

44. A perusal of the impugned order goes to show that the Tribunal did not take into consideration Ex.A17- the Income Tax returns for the assessment year 2016-17 is for a sum of Rs.11,58,220/- as the same was filed after the death of the deceased. Further, the Tribunal observed that Ex.A17 shows that the petitioners did not suffer any financial set-back due to death of the deceased since the income has increased from Rs.9,92,210/- in the years 2015-16 to Rs.11,58,220/- in the year 2016-17 PW.1 did not examine any witness to prove the contents of Ex.A15 to A17. The income tax returns are filed by individuals online and therefore, there is no means to ascertain the truth in the contents of income tax returns submitted by the individuals. The Tribunal took the income tax submitted under Ex.A15 during the lifetime of the deceased at Rs.3,64,610/-

leaving aside Ex.A16 and A17 since they are filed after the death of the deceased.

45. Learned counsel for the appellants/petitioners submitted that the Income Tax Return is a Statutory document on which reliance may be placed to determine the annual income of the deceased. In support of his contention, he relied upon Malarvizhi's case (1st supra) wherein the Supreme Court held as follows:

"10. The Tribunal proceeded to determine the agricultural income arising from 36.76 acres of land on the basis of two judgments of the High Court. The Tribunal arrived at two different figures by applying the decisions and proceeded to determine the agricultural income on an average of the two amounts. The Tribunal superimposed a possible value of income from agricultural land despite a clear indication in the income tax returns of the income from agricultural land. The method adopted by the Tribunal is not sustainable in law. On the other hand, the High Court has proceeded on the basis of the income reflected in the income tax return for the assessment year 1997-1998. The relevant portion of the return reads:

"Income from house property Rs. 1,920

Business profit (other than 14.b) Rs. 1,21,071

Net agricultural income - Rs. 88,140"

The tax return indicates an annual income of Rs.2,11,131/- in the relevant assessment year. Mr. Jayanth Muth Raj, learned senior counsel appearing on behalf of the appellants, contended that other documents were marked with

the which reflected the income of the deceased. We are in agreement with High Court that the determination must proceed on the basis of the income tax return, where available. The income tax return is a statutory document on which reliance may be placed to determine the annual income of the deceased. To the benefit of the appellants, the High Court has proceeded on the basis of the income tax return for the assessment year 1997-1998 and not 1999-2000 and 2000-2001 which reflected a reduction in the annual income of the deceased."

In view of the above, the Income Tax Return is a Statutory document on which reliance may be placed to determine the annual income of the deceased. Therefore, the findings of the Tribunal that PW.1 did not examine any witness to prove the contents of Ex.A15 to A17 and that the income tax returns are filed by individuals online and therefore, there is no means to ascertain the truth in the contents of income tax returns submitted by the individuals, is negated.

46. Learned counsel for the appellants/petitioners submitted that the Tribunal did not consider the income shown in Ex.A17- Income Tax Returns for the assessment year 2016-17 as it was filed after the death of the deceased. In support of his contention, he relied upon the judgment of Supreme Court in Rukmani Jethani's case (2nd supra) wherein it was held as follows:

"3. The appellants filed a claim application seeking compensation of Rs.25,62,000/-, Motilal Jethani was aged 40 years at the time of death and had a monthly income of Rs.7,000/- from bardana and dairy business. According to the appellants, Income tax returns (ITR) for the financial years 2002-2003, 2003-2004 and 2004-2005 were produced before Motor Accidents Claims Tribunal (MACT) which were marked as Exs.14, 13 and 12, respectively. Exh. 12 was not taken into consideration by the MACT on the ground that it was filed after the death of Motilal Jethani on 14.09.2005. The income of deceased Motilal Jethani was determined as Rs.54,150/- on the basis of the ITR for the financial year 2003-2004.

9. After careful consideration of the submissions made on behalf of the parties, we are of the opinion that the MACT committed an error in not taking into account the ITR filed on behalf of the deceased for the financial year 2004-2005. Taking into account the ITR filed on behalf of the deceased for the financial year 2004-2005, we hold that the appellants are entitled for an amount of Rs.8,40,735/- towards compensation on the basis of yearly income of the deceased applying the multiplier of 15."

In view of the principle laid down by the Supreme Court in the above case, we are of the view that the Tribunal had committed an error in not taking into account the Ex.A17/ITR filed on behalf of the deceased for the assessment year 2016-17.

47. In view of the above discussion, as per Ex.A17/ITR filed on behalf of the deceased for the assessment year 2016-17, the annual income of the deceased was Rs.11,58,220/-.

48. The Tribunal has rightly considered the age of the deceased as 32 years in view of Ex.A20/SSC certificate. The Tribunal has rightly taken the future prospects @ 40% of the established income. In terms of the decision of the Apex Court in **National Insurance Company Ltd. Vs. Pranay Sethi¹**, the future prospects of the deceased shall be computed at 40%, and accordingly, the annual income comes to Rs.16,21,508/- [Rs.11,58,220/-+Rs.4,63,288/-]. There are six dependents. Therefore, taking 1/4th of the deceased's income towards his personal and living expenses, the contribution of the deceased would be Rs.12,16,131/-[Rs.16,21,508/- (minus) Rs.4,05,377/-]. Further, considering the age of the deceased at the time of the accident, the Tribunal rightly considered the multiplier as '16' as per the decision of the Apex Court reported in **Sarla Verma Vs. Delhi Transport Corporation²**. Adopting a multiplier of '16', the total loss of dependency comes to Rs.12,16,131/- x 16 = **Rs.1,94,58,096/-**.

49. Learned counsel for the appellants/petitioners vehemently argued that the Tribunal failed to grant compensation towards pain and suffering as the deceased died after two days of the accident. The Tribunal has rightly awarded an amount of

¹ (2017) 16 SCC 680.

² (2009) 6 SCC 121.

Rs.1,28,570/- towards medical expenses without granting any compensation towards pain and suffering since the compensation towards pain and suffering is awarded to those persons who suffered the injuries and who are alive. In the instant case, the deceased though died after two days of the accident, the petitioners are not entitled any amount towards pain and suffering as they are not sufferers of any injuries.

50. Learned counsel for appellants/petitioners further contended that the Tribunal had wrongly awarded Rs.70,000/- towards funeral expenses, loss of love and affection, loss of estate and loss of consortium. As rightly contended by the learned counsel for petitioners, the Tribunal had wrongly awarded the amounts under conventional heads. It is pertinent to mention here that as per the judgment in **Pranay Sethi** (supra), petitioners are entitled to a sum of Rs.36,300/- (Rs.15,000/- +Rs.15,000/- +10%+10%) towards loss of estate and funeral expenses. Further, in view of the judgment of the Hon'ble Apex Court in **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram and others**³, the petitioners are entitled to Rs.40,000/- each towards spousal consortium, filial consortium and parental consortium. In view

³(2018) 18 SCC 130

of the decision rendered by the Hon'ble Supreme Court in **N. Jayasree and others V. Cholamandalam MS General Insurance Co. Ltd.**,⁴ wherein at para No.34, it was held as under:

"A three Judge Bench of this Court in United India Insurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur and Ors, 2020(6) ALD 39 (SC) = 2020 SCC Online SC 410 = AIR 2020 SC 3076, after considering Pranay Sethi's case (supra), has awarded spousal consortium at the rate of Rs.40,000/ (Rupees forty thousand only) and towards loss of parental consortium to each child at the rate of Rs.40,000/ (Rupees forty thousand only). The compensation under these heads also needs to be increased by 10%. Thus, the spousal consortium is awarded at Rs.44,000/ (Forty four thousand only), and towards parental consortium at the rate of Rs.44,000/ each (Total Rs.88,000/-) is awarded to the two children."

51. Therefore, referring the above said judgments and also considering the arguments of both sides, the order dated 17.05.2022 passed by the Tribunal in M.V.O.P.No.953 of 2016 is modified as follows:-

S.No.	Particulars	Amount
1.	Total Loss of Dependency	Rs.1,94,58,096/-
2.	Add : Conventional Heads (Funeral Expenses and Loss of Estate) (Rs.15,000/- + Rs.15,000/- +10% + 10%)	Rs. 36,300/-
3.	Add: Loss of spousal	Rs. 48,400/-

⁴2022(1) ALD 10(SC)

	consortium (Rs.40,000/-+ 10% + 10%) to petitioner No.1	
4.	Add: Loss of parental consortium to petitioner Nos.2 to 4 (Each Rs.40,000/- + 10% + 10% three years Rs.48,400/-)	Rs. 1,45,200/-
5.	Add: Loss of filial consortium to petitioner Nos.5 & 6 (Each Rs.40,000/- + 10% for every three years Rs.48,400/-)	Rs. 96,800/-
6.	Medical expenses	Rs.1,28,570/-
Total Compensation		Rs.1,99,13,366/-

52. Though the claimed amount is Rs.1,00,00,000/-, invoking the principle of just compensation, and in view of the law laid down by the Hon'ble Supreme Court in **Rajesh vs. Rajbir Singh**⁵ and in a catena of decisions, this Court is empowered to grant compensation beyond the claimed amount.

53. The Tribunal has rightly awarded the interest @ 7.5% p.a. which requires no interference from this Court.

54. Accordingly, M.A.C.M.A. No.557 of 2022 is allowed by enhancing the compensation awarded by the Tribunal from Rs.32,62,009/- to **Rs.1,99,13,366/-** (Rupees One Crore, Ninety nine Lakhs, Thirteen thousand, Three hundred and sixty six only) with interest @ 7.5 % p.a. from the date of petition till the

⁵ MANU/SC/0480/2013

date of realization. Petitioners are directed to pay the deficit Court fee. Respondent Nos.1 to 3 are directed to deposit the said amount with interest after giving due credit to the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this judgment. On such deposit, the petitioners are permitted to withdraw the said amount in the same manner and apportionment as determined by the Tribunal. There shall be no order as to costs.

M.A.C.M.A.No.427 of 2023

55. In view of the judgment passed in M.A.C.M.A. No.557 of 2022, this M.A.C.M.A. filed by the appellants/TSRTC is hereby dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any are pending, shall stand closed.

//TRUE COPY//

Sd/- K. AMMAJI
ASSISTANT REGISTRAR


SECTION OFFICER

One Fair Copy to the Hon'ble Sri Justice Sujoy Paul
(For His Lordship's Kind Perusal)

One Fair Copy to the Hon'ble Sri Justice Namavarapu Rajeshwar Rao
(For His Lordship's Kind Perusal)

To,

1. The Chairman, Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad (with records, if any)
2. 11 LR Copies
3. The Under Secretary, Union of India Ministry of Law, Justice and Company Affairs, New Delhi

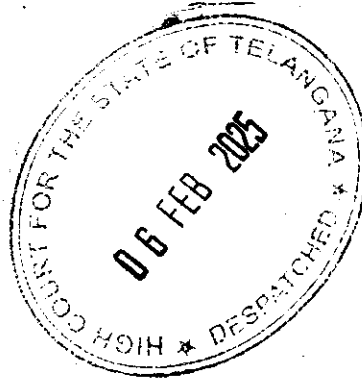
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4. The Secretary, Advocates Association Library, High Court for the State of
Telangana, High Court Buildings at Hyderabad
 5. One CC to Sri Kota Subba Rao, Advocate [OPUC]
 6. One CC to Sri R Anurag, Standing Counsel for TSRTC [OPUC]
 7. One CC to Sri P Rama Krishna Reddy, Advocate [OPUC]
 8. Two CD Copies

VA/gh



HIGH COURT

DATED:31/12/2024



**COMMON JUDGMENT + COMMON DECREE
(2 DRAFTS)**

MACMA.Nos.557 of 2022 & 427 of 2023

**ALLOWING THE MACMA.No.557 of 2022 &
DISMISSING THE MACMA.No.427 of 2023**

22

JLM
07/04/25

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE SRI JUSTICE SUJOY PAUL
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

M.A.C.M.A. NOS: 557 OF 2022 & 427 OF 2023

M.A.C.M.A. NO: 557 OF 2022

Between:

1. R Neelima, W/o. Late Narender, Aged. 32 years, Occ. Household
2. R Lakshmi Pranathi, D/o. Late Narender, Aged 11 years, Occ. Nil
3. R Sai Charan, S/o. Late Narender, Aged 10 years, Occ. Nil
4. R Ram Charan, S/o. Late Narender, Aged 8 years, Occ. Nil
5. R Prashanthi, W/o. R Prasad, Aged 56 years, Occ. Household
6. R Prasad, S/o. Ramalingam, Aged 64 years, Occ. Nil

[Petitioners No 2 to 4 are minors repled. By their Mother and Guardian, the
Petitioner No. 1 herein]

All are R/o. H.No. 4-9-649, Flat No G3, Sri Swathi Residency, Vinayaka Nagar
Colony, Hayathnagar, Ranga Reddy District

Presently R/o. H.No. 16-4-7/C, Malakpet, Hyderabad

...Petitioners

AND

1. The TSRTC, repled. by its Managing Director, RTC X Roads, Musheerabad,
Hyderabad
2. The TSRTC, repled. by its Depot Manager, Hayathnagar-I Depep,
Hayathnagar, Ranga Reddy District

(Owners of the TSRTC Bus bearing No.AP28Z-1858)

3. D. Sathaiah, S/o. Gandaiah, Aged about 59 years, Occ. Driver, Native of 1-
132, Kandapur Village, Chandur Mandal, Nalgonda District - 543001
Presently R/o.H.No.4-9-40/ 189, Priyadarshini Colony, Hayathnagar, R.R.
District

(Driver of the TSRTC Bus bearing No.AP28Z-1858)

...Respondents

Appeal under Section 173 of Motor Vehicles Act, 1988 against the Award and
Decree dated 17-05-2022 made in M.V.O.P.No.953 of 2016 on the file of the Court
of the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad.

M.A.C.M.A. NO: 427 OF 2023

Between:

1. The T.S.R.T.C., Rep. by its Managing Director RTC X Road, Musheerabad, Hyderabad
2. The T.S.R.T.C, Rep. by its Depot Manager, Hayathnagar-I Depot, Hayathnagar, Ranga Reddy District

...Appellants / Respondents

AND

1. R. Neelima, W/o. Late Narender, Aged 26 years, Occ. Household
2. R. Lakshmi Pranathi, D/o. Late Narender, Aged about 5 years, Occ. NIL
3. R. Sai Charan, S/o. Late Narender, Aged about 4 years, Occ. NIL
4. R. Ram Charan, S/o. Late Narender, Aged about 2 years, Occ. NIL
5. R. Prashanthi, W/o. R. Prasad, Aged about 50 years, Occ. House Hold
6. R. Prasad, S/o. Ramalingam, Aged about 58 years, Occ. NIL

All are R/o. H.No.4-9-649, Flat No. G3, Sri Swathi Residency, Vinayakanagar Colony, Hayathnagar, Ranga Reddy District, Presently R/o. H.No.16-4-7/C, Malakpet, Hyderabad

...Respondents / Petitioners

7. D. Sathiah, S/o. Gandaiah, Aged about 53 years, Occ. Driver, Native of 1-132, Kandapur Village, Chandur Mandal, Nalgonda District- 508 001

Presently R/o. H.No.4-9-40/ 189, Priyadarshini Colony, Hayathnagar, R.R. District

(Respondent No.7 is not necessary party to this case)

...Respondents / Respondent No 3

Appeal under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 17-05-2022 made in M.V.O.P.No.953 of 2016 on the file of the Court of the Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad.

This appeal coming on for hearing and upon perusing the grounds of appeal, the Judgment and Decree of the Lower Court and the material papers in the case and upon hearing the arguments of Sri Kota Subba Rao, Advocate for the Appellants in MACMA No.557 of 2022 and of Sri R Anurag, Standing Counsel for TSRTC for Respondent No. 1 & 2 in MACMA No.557 of 2022 & Appellants in MACMA No.427 of 2023, and Sri P Rama Krishna Reddy, Advocate for Respondent No. 1 to 6 in MACMA No.427 of 2023.

This Court doth Order and decree as follows:-

1. That the MACMA No.557 of 2022 be and hereby is allowed;
2. That the MACMA No.427 of 2023 filed by the appellants/TSRTC be and hereby is dismissed;
3. That the amount of compensation awarded by the Tribunal is enhanced from Rs. 32,62,009/- to Rs. 1,99,13,366/- (Rupees One Crore, Ninety Nine Lakhs, Thirteen Thousand, Three Hundred and Sixty Six Only) with interest @ 7.5% p.a. from the date of petition till the date of realization;
4. That the petitioners be and hereby directed to pay the deficit Court fee;
5. That the Respondent Nos.1 to 3 be and hereby directed to deposit the said amount with interest after giving due credit to the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this judgment;
6. That on such deposit, the petitioners be and hereby permitted to withdraw the said amount in the same manner and apportionment as determined by the Tribunal; and
7. That there shall be no order as to costs in this appeal;

//TRUE COPY//

Sd/- K. AMMAJI
ASSISTANT REGISTRAR

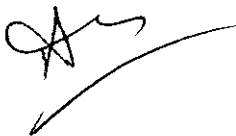


SECTION OFFICER

To,

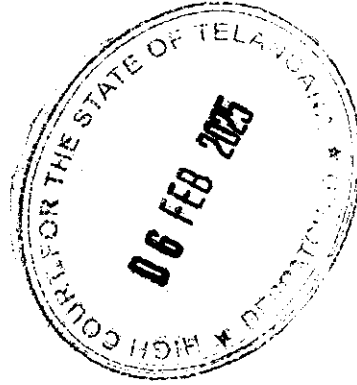
1. The Chairman, Motor Accident Claims Tribunal-cum-Chief Judge, City Civil Court, Hyderabad
2. Two CD Copies

VA



HIGH COURT

DATED:31/12/2024



COMMON DECREE

MACMA.Nos.557 of 2022 & 427 of 2023

**ALLOWING THE MACMA.No.557 of 2022 &
DISMISSING THE MACMA.No.427 of 2023**

3
REMA
04/2/2025